

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA**

GARY GAINES,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-09-190-JHP-SPS
)	
CHARLES PEARSON,)	
<i>et al.,</i>)	
)	
Defendants.)	

ORDER

This matter comes on for consideration of plaintiffs Motion for this Court to Reconsider Taxation of Costs by the Clerk of Court (Dkt. # 210). On March 1, 2012, this Court entered judgment in favor of the defendants and against plaintiff (Dkt. # 195). On March 8, 2012, the defendants filed a Bill of Costs (Dkt. # 196). On March 21, 2012, plaintiff requested the court stay any ruling on the bill of costs (Dkt. # 198) and on April 2, 2012, plaintiff filed a motion requesting the court to reconsider its judgment (Dkt. # 199). On April 5, the Court denied plaintiff's motion for reconsideration (Dkt. # 200) and on April 17, 2012, the motion to stay was stricken (Dkt. # 203). On April 17, 2012, an order was entered taxing costs in the amount of \$690.44 in favor of the defendant and against the plaintiff (Dkt. # 204). On April 20, 2012, an Amended Judgment was filed herein. The only change to the previous judgment was that the original judgment indicated the case number was "CIV-09-190-RAW-SPS" when in reality the case number was "CIV-09-190-JHP-SPS." On the same date, the clerk of the court entered an "Amended Order Taxing Costs" (Dkt. #

208). Again the only change was to the case number. Thus, both of the documents styled “amended” were in reality only “corrected” documents, correcting scrivener’s errors. On May 3, 2012, the plaintiff filed the instant motion seeking to have the court recall the Order Taxing Costs which was entered on April 17, 2012 as Dkt. # 204.

Pursuant to Fed.R.Civ.P. 54(d)(1), this Court has authority to review any order taxing costs if the motion is served within seven (7) days after the clerk’s order. Although the Clerk entered an order in this case taxing costs on April 17, 2012, plaintiff did not file any motion seeking review of the clerk’s action until sixteen (16) days after the order was entered. The certificate of service on plaintiff’s motion indicates it was not placed in the prison mail until April 26, 2012, or nine (9) days after the clerk’s order was entered. Further, even if this Court were to consider the motion was timely filed, because it was filed within seven (7) days of the corrected order taxing costs, plaintiff does not object to any one item taxed by the clerk; rather, he asks this court to recall the order until his appeal is ruled upon. Plaintiff cites no authority for his request.

The Clerk correctly taxed costs in this matter pursuant to Fed.R.Civ.P. 54. Accordingly, this Court denies Plaintiff’s Motion for Reconsideration of the Order Taxing Costs entered by the Clerk.

It is so ordered on this 1st day of June, 2012.


James H. Payne
United States District Judge
Eastern District of Oklahoma